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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

RAYMOND C. GIVENS,
Plaintiff,

v.

WALLACE OENGA,
Defendant.

**MOTION FOR ORDER
ENFORCING JUDGMENT**

Case No. 3:19-cv-00043-HRH

COMES NOW Plaintiff Raymond C. Givens, by his undersigned counsel, and moves, pursuant to Rule 70(a), Federal Rules of Civil Procedure, that the Court enforce its Default Judgment, filed on June 10, 2019. (Doc. 29)

Section III of the judgment awarded specific performance to Plaintiff. Paragraphs 1 and 2 of that section required Defendant to sign, by June 24, 2019, two Forms OST 01-004 of the Office of Special Trustee (“OST”), U.S. Department of the Interior, directing payments by OST to Plaintiff from Defendant’s Individual Indian Money (“IIM”) account the amounts that Defendant owed and will owe to Plaintiff from the share of rents that Defendant will receive from the lease of restricted Native Allotment F14632, Parcel B, near

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Prudhoe Bay, Alaska. The first OST form dealt with monies currently owed. The second form dealt with monies owed in the future. Under paragraphs 1 and 2 of Section III of the judgment, Defendant was required, by June 28, 2019, to submit the signed forms to OST and to file with the Court and serve on Plaintiff a notice of compliance.

On June 12, 2019, Plaintiff's undersigned counsel sent a copy of the Court's judgment and the OST forms to Defendant's last known mailing addresses by U.S. Priority Mail Express. (Doc. 30) Defendant has failed to sign the forms or file and serve a notice of compliance, as required by the judgment.

Paragraph 3 of Section III of the judgment states that if Defendant fails or refuses to comply with paragraphs 1 and 2 of that section, Plaintiff may apply to the Court for entry of an order enforcing the judgment, pursuant to Rule 70(a), Federal Rules of Civil Procedure. The judgment then stated that if such a motion is made and granted, the Court will direct the Clerk of Court to sign the forms. Rule 70(a) states: "When done, the act has the same effect as if done by the party."

For the reasons stated above, the Court should enter an order now, pursuant to Rule 70(a), directing the Clerk of Court, acting for and on behalf of Defendant, to sign the two OST forms, thereby directing OST to pay Plaintiff in accordance with the judgment.¹ Plaintiff

¹ Paragraph 1 of Section III of the judgment required Defendant to direct OST to pay to Plaintiff, from rent paid by BP for calendar year 2020 (to be paid by October 2019), the following: (a) \$136,116.91, plus accrued interest; and (b) 25% of Defendant's share of the rent for calendar year 2020 (to be paid by October 2019). Because Defendant has failed to so direct OST, Plaintiff asks here that the Court to direct the Clerk of Court to so act on for and on behalf of Defendant, pursuant to Rule 70(a), Federal Rules of Civil Procedure. The precise

asks that the Clerk of Court sign the forms at Block 8 as follows: “[Name], Clerk of Court, for Wallace Oenga, by order of the U.S. District Court for Alaska,” and initial their respective Attachments A and B. Additionally, a witness should sign the forms at Block 9. Plaintiff will then submit the signed OST forms, with their respective attachments, to OST, along with a copy of the Court’s judgment.

Because the two OST forms, with their respective attachments, contain confidential information about Defendant, Plaintiff files herewith, under Local Civil Rule 7.3(f), a motion for leave to file under seal those OST forms, with their attachments.

Lodged herewith is a proposed order granting the instant motion for order enforcing judgment.

Dated at Anchorage, Alaska, this 2nd day of July, 2019.

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amount that will be owed to Plaintiff for calendar year 2020 (to be paid by October 2019) will not be known until BP performs its CPI-adjusted rental increase calculation, which Plaintiff anticipates will be sometime in mid-July 2019. There may be insufficient funds received by Defendant from rent for calendar year 2020 (to be paid by October 2019) to pay to Plaintiff the full amount owed to him then. Accordingly, Attachment A to Plaintiff’s proposed OST form for that payment provides that if there are insufficient funds to pay Plaintiff in full then, the remaining balance owed to Plaintiff, plus accrued interest, shall be paid from the next year’s rent payment to Defendant.

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